

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEFFREY JAMES MILLIRON,

Defendant.

CR 12–06–H–CCL

ORDER

The Court referred the Petition for Revocation (Doc. 75) for hearing, findings of fact, and recommendation to Magistrate Judge Holter by order filed on December 29, 2014 (Doc. 81).¹ Pending now before the Court is the Report of Findings & Recommendations (“F&R”) filed by Magistrate Judge Holter on March 5, 2015 (Doc. 91). Both Defendant and the government have waived the

¹ See 18 U.S. C. §3401(i).

14-day objection period.

I. Background

The following facts are taken from the F&R:

After sentence was imposed, defendant violated the terms of his release from custody as follows:

- a. The defendant used alcohol in July, 2013. While this was reported to the court, no action was deemed necessary at that time;
- b. The defendant again consumed alcohol on or about August 4, 2014, and was involved in an incident associated therewith. Again, no action was taken;
- c. On November 21, 2014 and again on December 23, 2014, the defendant tested positive for the use of methamphetamine. He admitted that he had used methamphetamine four times.

(Doc. 91 at 3.) Defendant is 52 years of age and his criminal record shows involvement with criminal violations beginning at age 18. Prior to this criminal case, Defendant was convicted in 1999 on a felony drug/firearm crime. (Doc. 91 at 3.) Defendant's U.S.S.G. Chapter 7 guideline range is 5-11 months incarceration, which may be followed by a term of supervised release of up to 31 months, less the custody time actually imposed.

The F&R recommends that this Court find the Defendant has violated his

conditions of his supervised release and sentence the Defendant to a time served (arrest date 12/23/2014), to be followed by a term of supervised release of 29 months. Magistrate Holter also recommends that Defendant complete a 60-day inpatient substance abuse treatment program at Connections Corrections in Butte, Montana, as a condition of Defendant's supervised release. The U.S. Probation Office informs the Court that Defendant is able to enter that program on March 6, 2015.

II. Standard of Review

Pursuant to 28 U.S.C. § 636(b)(1) this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” The district judge must review the magistrate judge's findings and recommendations de novo if objection is made. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). If an objection is made, the court reviews de novo only the portion to which the objection was made, and the remainder is reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). No objection having been made, this

Court reviews the F&R accordingly.

III. Discussion

Having reviewed the F&R carefully, and all the record, the Court decides that Mag. Judge Holter is correct in recommending that this Court find that Defendant has violated his conditions of supervised release. The Court therefore finds by a preponderance of the evidence that Defendant did violate his conditions of supervised release by using alcohol and methamphetamine. *See* 18 U.S.C. § 3583(e)(3). The Court also agrees with Judge Holter that the Defendant was in need of a period of incarceration to assist him in distancing himself from these addictive substances and that Defendant is in further need of substance-abuse treatment. The Court will therefore impose the recommended sentence.

IV. Conclusion.

The Court having found that Defendant did violate the terms and conditions of his supervised release and that Magistrate Holter's recommendation of imprisonment for a period of time served, followed by a term of supervised release

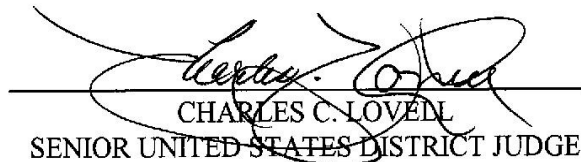
of twenty-nine months, is sound and should be approved, the Court will enter an appropriate Judgment.

Accordingly,

IT IS HEREBY ORDERED that this Magistrate Judge Holter's Findings and Recommendations are approved. The Clerk shall enter and file the Court's Judgment herewith.

The Clerk shall send a copy of this order to Magistrate Judge Holter and the United States Probation Office.

Done and dated this 6th day of March, 2015.


CHARLES C. LOVELL
SENIOR UNITED STATES DISTRICT JUDGE